

DIALOGUE

Fall 2010
VOL. 14, NO. 4

News and Perspectives from the ABA Division for Legal Services

Home

IOLTA

Fundraising
for Legal Aid
in Challenging
Times

From the Chair

Grantee
Spotlight

News and
Notes

Pro Bono

LAMP

*Download this
issue in PDF*

*Download this article
in PDF*

Grantee Spotlight: North Dakota's Council on Abused Women's Services

By Janelle Moos

The North Dakota Council on Abused Women's Services (NDCAWS), which was established in 1978 as a Coalition, has grown from a loose network of five organizations to a membership of 21 direct service agencies, assisting domestic violence victims in all 53 counties and the four reservations in North Dakota. The organization has indeed operated as a "coalition," with the director of each of the 21 member agencies serving as the board of directors until November 2009, when the membership elected a board of directors that includes community members.

The rich history of the organization includes not only the nurturing and subsequent growth of a direct service provider network, but also a consistent presence in the legislative and policy work advocating for victims' rights and support in a variety of systems. The coalition has been active in this role since the first state protection order statute was passed in 1979.

A Critical Rule Change

Each year victims of domestic violence seek refuge at crisis centers that offer services designed to provide safety when fleeing a violent relationship. Advocates may offer assistance in securing housing, employment, and transportation but more often than not victims request assistance navigating the civil legal process for obtaining a protection order. Although this type of service is offered by other crisis centers across the county, advocates in North Dakota hold a unique position within the court system because of Administrative Rule 34, which was adopted by the North Dakota Supreme Court in 1992. It significantly changed the way protection orders are handled within the courts.

Under the Rule, certified domestic violence advocates are allowed to assist the petitioner in completing the protection order forms, sit with the petitioner during court proceedings, and at the judge's discretion, make oral and written statements to the court. The most significant change to the protection order process occurred under Section 7 of Administrative Rule 34, which says that while providing these services, "advocates are not engaged in the unauthorized practice of law."

Before Administrative Rule 34 was adopted, the legal profession and the Court had jealously guarded the sole right of licensed lawyers to help prepare court pleadings, to sit with petitioners at counsel table, and to make statements to the court on behalf of the petitioner. Until that language was passed it was unthinkable, and in fact a crime, a class A misdemeanor, that non-lawyers would be permitted to do those things. And yet, because the need was there, because most domestic violence victims can't afford lawyers, because the Court realized how nearly impossible it is for a victim to find the strength to stand up and defend herself, and because there aren't always lawyers available, somebody had to help. Once Administrative Rule 34 was adopted some lawyers criticized the change, but the Court stood behind it and supported it.

Today, there are 64 certified advocates available to help victims throughout the state. During the first six months of 2010, advocates helped victims secure 331 temporary protection orders and 194 permanent protection orders.

Certification and Training

Section 3 of Administrative Rule 34 sets forth the certification and training requirement for domestic violence advocates. The certification curriculum was established by the State Bar Association and the North Dakota Supreme Court to ensure that advocates have a solid background in court procedures, domestic violence statutes, and the role of law enforcement, advocates, and the court system in the protection order process. Initially, all new advocates are required to receive 10 hours of legal issues training and an additional 30 hours of training on domestic violence. Each year, advocates are required to receive an additional 10 hours of continuing education.

Since the inception of the Rule, the North Dakota Council on Abused Women's Services (NDCAWS) has been responsible for training the advocates. In recent years, it has become apparent that the complexity and diversity of protection order requests and decisions of the court require advocates to maintain a high level of understanding regarding the current environment in which protection orders are awarded. These changes, statutory and by Supreme Court decision, warranted the need for additional training for advocates.

IOLTA as a Resource

When NDCAWS received an IOLTA grant in 2009, it provided critical support for an advanced legal issues training that was offered to advocates with more than three years experience. In August 2009, almost half the advocates in the state attended a 12-hour training. Topics included understanding the boundaries of Rule 34, the judicial role in protection orders, recent Supreme Court cases, and expert witness testimony in domestic violence cases. The training provided advocates with an opportunity to increase their knowledge while also allowing time for roundtable discussions regarding the current challenges and barriers victims face when requesting protection orders in order to identify solutions.

The IOLTA grant was renewed in 2010, and it supported NDCAWS's second annual advanced legal issues training. That event focused on training advocates to become expert witnesses in domestic violence cases.

These training events have been highly successful. The advocates in attendance specifically appreciate having a forum to problem solve with other advocates with a similar level of experience and to receive feedback and support from experts in the field. IOLTA funds proved to be an invaluable resource to ensure the scope of the Rule is maintained, to increase the number of expert witnesses available, and to enhance the credibility and competence of advocates assisting domestic violence victims in North Dakota.

Janelle Moos is the Executive Director of the North Dakota Council on Abused Women's Services

Excerpts from William A. Neumann's, Executive Director of the State Bar Association in North Dakota, opening statements for Advanced Legal Issues training are included within the article.

Dialogue is published by the [ABA Division for Legal Services](#)

Copyright © 2010 American Bar Association

[ABA Privacy Statement](#) | [ABA Copyright Statement](#)